

530 MHP

1 **PETITION FOR A WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY**2 Name Daniels Isiah
(Last) (First) (Initial)

3 Prisoner Number K-37959

4 Institutional Address 14 V-2L CSP Solano, P.O. Box 4000
5 Vacaville, Ca. 95696-4000AUG 12 2008
RICHARD W. WILKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA6
7 **UNITED STATES DISTRICT COURT**
NORTHERN DISTRICT OF CALIFORNIA8 Isiah Daniels
(Enter the full name of plaintiff in this action.)

9 vs.

10 D.K. Sisto (warden)

11
12
13
14 (Enter the full name of respondent(s) or jailor in this action)

CV 08 3852

Case No. SC 152249 A
(To be provided by the clerk of court)PETITION FOR A WRIT
OF HABEAS CORPUS

E-filing (PR)

16 **Read Comments Carefully Before Filling In**17 **When and Where to File**18 You should file in the Northern District if you were convicted and sentenced in one of these
19 counties: Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa,
20 San Benito, Santa Clara, Santa Cruz, San Francisco, San Mateo and Sonoma. You should also file in
21 this district if you are challenging the manner in which your sentence is being executed, such as loss of
22 good time credits, and you are confined in one of these counties. Habeas L.R. 2254-3(a).23 If you are challenging your conviction or sentence and you were not convicted and sentenced in
24 one of the above-named fifteen counties, your petition will likely be transferred to the United States
25 District Court for the district in which the state court that convicted and sentenced you is located. If
26 you are challenging the execution of your sentence and you are not in prison in one of these counties,
27 your petition will likely be transferred to the district court for the district that includes the institution
28 where you are confined. Habeas L.R. 2254-3(b).

1 Who to Name as Respondent

2 You must name the person in whose actual custody you are. This usually means the Warden or
 3 jailor. Do not name the State of California, a city, a county or the superior court of the county in which
 4 you are imprisoned or by whom you were convicted and sentenced. These are not proper
 5 respondents.

6 If you are not presently in custody pursuant to the state judgment against which you seek relief
 7 but may be subject to such custody in the future (e.g., detainees), you must name the person in whose
 8 custody you are now and the Attorney General of the state in which the judgment you seek to attack
 9 was entered.

10 A. INFORMATION ABOUT YOUR CONVICTION AND SENTENCE

11 1. What sentence are you challenging in this petition?

12 (a) Name and location of court that imposed sentence (for example; Alameda
 13 County Superior Court, Oakland):

14 Marin County Superior Court Marin County

15 Court Location

16 (b) Case number, if known SC152249A

17 (c) Date and terms of sentence 01/24/97— 6 years /consecutive life term

18 (d) Are you now in custody serving this term? (Custody means being in jail, on
 19 parole or probation, etc.) Yes x No _____

20 Where?

21 Name of Institution: CSP Solano

22 Address: P.O Box 4000, Vacaville, Ca 95696-4000

23 2. For what crime were you given this sentence? (If your petition challenges a sentence for
 24 more than one crime, list each crime separately using Penal Code numbers if known. If you are
 25 challenging more than one sentence, you should file a different petition for each sentence.)

26 Kidnap/Robbery PC 209, Assault w/intent PC220

27 _____

28 _____

1 3. Did you have any of the following?

2 Arraignment: Yes No _____

3 Preliminary Hearing: Yes No _____

4 Motion to Suppress: Yes _____ No

5 4. How did you plead?

6 Guilty _____ Not Guilty _____ Nolo Contendere _____

7 Any other plea (specify) Plea Agreement _____

8 5. If you went to trial, what kind of trial did you have? N/A

9 Jury _____ Judge alone _____ Judge alone on a transcript _____

10 6. Did you testify at your trial? N/A Yes _____ No _____

11 7. Did you have an attorney at the following proceedings:

12 (a) Arraignment Yes No _____

13 (b) Preliminary hearing Yes No _____

14 (c) Time of plea Yes No _____

15 (d) Trial Yes N/A No _____

16 (e) Sentencing Yes No _____

17 (f) Appeal Yes N/A No _____

18 (g) Other post-conviction proceeding Yes N/A No _____

19 8. Did you appeal your conviction? Yes _____ No

20 (a) If you did, to what court(s) did you appeal?

21 Court of Appeal Yes _____ No

22 Year: _____ Result: N/A _____

23 Supreme Court of California Yes _____ No _____

24 Year: _____ Result: N/A _____

25 Any other court Yes _____ No _____

26 Year: _____ Result: N/A _____

27 (b) If you appealed, were the grounds the same as those that you are raising in this

1 petition? N/A Yes _____ No _____

2 (c) Was there an opinion? N/A Yes _____ No _____

3 (d) Did you seek permission to file a late appeal under Rule 31(a)? N/A
4 Yes _____ No x _____

5 If you did, give the name of the court and the result:

6 _____ N/A
7 _____

8 9. Other than appeals, have you previously filed any petitions, applications or motions with respect to
this conviction in any court, state or federal? Yes X No _____

10 [Note: If you previously filed a petition for a writ of habeas corpus in federal court that
11 challenged the same conviction you are challenging now and if that petition was denied or dismissed
12 with prejudice, you must first file a motion in the United States Court of Appeals for the Ninth Circuit
13 for an order authorizing the district court to consider this petition. You may not file a second or
14 subsequent federal habeas petition without first obtaining such an order from the Ninth Circuit. 28
15 U.S.C. §§ 2244(b).]

16 (a) If you sought relief in any proceeding other than an appeal, answer the following
17 questions for each proceeding. Attach extra paper if you need more space.

18 I. Name of Court: Marin County Superior Court, Marin County

19 Type of Proceeding: Habeas Petition

20 Grounds raised (Be brief but specific):

21 Petitioners received a sentence in a plea agreement that has been
a. ruled unconstitutional by the U.S. Supreme Court

22 Petitioners plea agreement imposes a sentence beyond what is
b. allowed by law, and fails to resolve the reasonable doubt standard.

23 Petitioners due process was violated when the BPIH failed to meet
c. "Some Evidence" standards and denied petitioner his right to Parole.

24 The BPIH denied petitioner of a liberty interest to parole by
d. refusing to adhere to the criteria set forth 3041 (b), 2402 (a) (c)

25 Result: DENIED Date of Result 08/08/07

26 II. Name of Court: California Court of Appeals, First Appellate District

27 Type of Proceeding: Habeas Petition

28 Grounds raised (Be brief but specific):

1 a. _____
2 b. _____
3 c. _____
4 d. _____

5 Result: Denied Date of Result: 11/01/07

6 III. Name of Court: California Supreme Court

7 Type of Proceeding: Habeas Petitioner

8 Grounds raised (Be brief but specific):

9 a. _____
10 b. _____
11 c. _____
12 d. _____

13 Result: Denied Date of Result: 06/08

14 IV. Name of Court: _____

15 Type of Proceeding: _____

16 Grounds raised (Be brief but specific):

17 a. _____
18 b. _____
19 c. _____
20 d. _____

21 Result: _____ Date of Result: _____

22 (b) Is any petition, appeal or other post-conviction proceeding now pending in any court?

23 Yes X No _____

24 Name and location of court: U.S. Court of Appeal For the Ninth Circuit
95 7th st. San Francisco Ca. 94103

25 B. GROUNDS FOR RELIEF

26 State briefly every reason that you believe you are being confined unlawfully. Give facts to
27 support each claim. For example, what legal right or privilege were you denied? What happened?
28 Who made the error? Avoid legal arguments with numerous case citations. Attach extra paper if you

1 need more space. Answer the same questions for each claim.

2 [Note: You must present ALL your claims in your first federal habeas petition. Subsequent
 3 petitions may be dismissed without review on the merits. 28 U.S.C. §§ 2244(b); McCleskey v. Zant,
 4 499 U.S. 467, 111 S. Ct. 1454, 113 L. Ed. 2d 517 (1991).]

5 Petitioners sentence has been ruled unconstitutional by the U.S Supreme
 Claim One:

6 Court, violating his 6th , 14th amendments of the U.S Constitution.

7 Supporting Facts: As stated in the Cunningham lineage. The sentencing judge sentencing
 8 petitioner to the upper term of the sentencing triad. Denies petitioner due process.
 9 Aggravating circumstances must be submitted to a jury to resolve reasonable doubt
 10 standard. Otherwise imposing a sentence beyond what is allowed by Law.

11 Claim Two: Petitioners plea agreement incorporates a sentence that is unauthorized by
 12 law creating a liberty interest. Petitioner is being held illegally beyond time
 restraints.

13 Supporting Facts: Petitioner has made a favorable plea agreement that has later been
 14 ruled unauthorized by law. People V. Baries 209 Cal. App. 3d. 313,319. Petitioner is
 15 beyond
 16 being held years what is allowed by law. All citizens have due process rights subject
 17 to " fairness of Law".

17 Claim Three: The Board relying soley on the commitment offense fails to meet "Some
 18 Evidence" standards, denying petitioner due process and his right to parole.

19 Supporting Facts: The Boards reliance on factors that cannot change violate a Liberty
 20 interest to due process. The Board continues to ignore the requirements of 3041 (b)
 21 2402 (a) (c) the guide line for finding an inmate suitable or unsuitable for parole
 22 alongside if the inmate would be a danger to the community. This blatant refusal by the
 Board violates due process in parole proceedings.

23 If any of these grounds was not previously presented to any other court, state briefly which
 24 grounds were not presented and why:

25

26

N/A

27

28

1 List, by name and citation only, any cases that you think are close factually to yours so that they
2 are an example of the error you believe occurred in your case. Do not discuss the holding or reasoning
3 of these cases:

4 Cunningham V. California (2007) 127 S. Ct. 856, Greenholtz V. Inmates of Nebraska Penal and
5 Penal Complex, 442 U.S. 1, 99 S. Ct. 2100, 60 L.Ed. 2d 668 (1979), Superintendent V. Hill, 472
6 U.S. 445, 105 S. Ct. 2768, 86 L. Ed. 2d 356 (1985), Dannenberg, 104 P. 3d at 885, Lee, 143 Cal.
7 App. 4th. at 1408, Cal. Code Reg. Tit. 15 3041 (a), 2402 (a) (c) Sass 461 F. 3d 1127-28,
8 Tyler V. Cain (2001) 533 U.S. 656, 665.

9 Do you have an attorney for this petition? Yes No x

10 If you do, give the name and address of your attorney:

11 N/A

12 WHEREFORE, petitioner prays that the Court grant petitioner relief to which s/he may be entitled in
13 this proceeding. I verify under penalty of perjury that the foregoing is true and correct.

14 Executed on 08/12/08

15 Date

16 

17 Signature of Petitioner

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20 (Rev. 6/02)

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TSAT Daniels 11:37459
04-U2-L ASP Solano
PC Box 4000
Vacaville, Ca 95696-4000

SACRAMENTO CA 95814
06 AUG 2008 PM 7 L



United States District Court
Northern District of California
U. S. Courthouse 450 Golden Gate Ave
San Francisco Ca 94102-3483
3410243681 0304

CALIFORNIA 94102-3483 0304

10 Albee

CALIFORNIA STATE INSURANCE

8-8-08

Lead

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIAFILED
AUG 12 2008RICHARD W. WIEKING
CLERK, NORTHERN DISTRICT OF CALIFORNIA

Dear Sir or Madam:

✓ Your petition has been filed as civil case number

CV 08

3852

✓ A filing fee of \$5.00 is now due. If you are unable to pay the entire filing fee at this time, you must sign and complete this court's Prisoner's In Forma Pauperis Application in its entirety. If the application is granted, you will not have to prepay the fee.

Your petition is deficient because you did not pay the filing fee and:

1. you did not file an In Forma Pauperis Application.

2. the In Forma Pauperis Application you submitted is insufficient because:

You did not use the correct form. You must submit this court's current Prisoner's In Forma Pauperis Application.

Your In Forma Pauperis Application was not completed in its entirety.

You did not sign your In Forma Pauperis Application.

You did not submit a Certificate of Funds in Prisoner's Account completed and signed by an authorized officer at the prison.

You did not attach a copy of your prisoner trust account statement showing transactions for the last six months.

Other _____

Enclosed you will find this court's current Prisoner's In Forma Pauperis Application, which includes a Certificate of Funds in Prisoner's Account form, and a return envelope for your convenience.

Warning: YOU MUST RESPOND TO THIS NOTICE. If you do not respond within THIRTY DAYS from the filing date stamped above, your action will be DISMISSED, the file closed and the entire filing fee will become due immediately. Filing a Prisoner's In Forma Pauperis Application will allow the court to determine whether prepayment of the filing fee should be waived.

Sincerely,

RICHARD W. WIEKING, Clerk,

By _____

Deputy Clerk